

FEDERAL ELECTION COMMISSION
Caplin & Drysdale

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A I I I I OFFICE OF THE
COUNCIL

October 21, 2014

VIA CERTIFIED MAIL

Daniel A. Petalas
Associate General Counsel - Enforcement
Federal Election Commission
999 E Street, NW
Washington, DC 20463

MUR 6893

Re: FEC Complaint Against "Winning the Senate PAC" for Misrepresentation

Mr. Petalas:

Winning the Senate PAC,¹ a so-called "super PAC" registered with the Commission, distributed a fraudulent and misleading fundraising email on October 12, 2014 that was designed to deceive recipients into believing that it originated from Senator Rand Paul and three other U.S. Senators. The mass email, entitled "We know you ignored this email on Friday," indicated in multiple places that it was "From: Cruz/Paul/Lee/Rubio (Senate)."² Senator Paul did not authorize the use of his name and is not affiliated with the PAC.

The PAC's mass fundraising email plainly violated federal law. The Federal Election Campaign Act expressly and specifically prohibits any entity from misrepresenting itself as "speaking, writing, or otherwise acting for or on behalf of [a] candidate ... for the purpose of soliciting contributions or donations."³ The Commission has previously found that merely implying affiliation with a candidate or committee in the course of fundraising is a violation of federal campaign finance rules.⁴ The PAC did more than that here, affirmatively representing to solicitation recipients that its fundraising email was "from" Senator Paul and others.

The PAC may attempt to excuse its misrepresentation by pointing to a disclaimer buried at the bottom of the email. The Commission has specifically rejected this defense, though, and has instead made a legal determination based on the overall appearance of the communication.⁵ Any "fine print" the PAC might have included in its fundraising email cannot paper over the fact

¹ Winning the Senate PAC's address is PO Box 320843, Alexandria, VA 22320.

² A copy of the mass fundraising email is enclosed with this complaint.

³ 52 U.S.C. § 30124(b). See also 11 C.F.R. § 110.16(b).

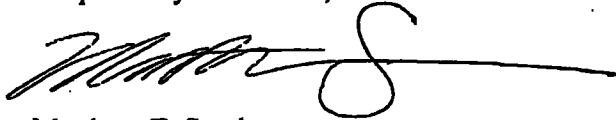
⁴ Matter Under Review 5472 (finding that respondents violated the Act because solicitations contained statements that falsely implied they were affiliated with or acting on behalf of the Republican Party).

⁵ Matter Under Review 5089 (finding reason to believe a violation occurred where a disclaimer was included on a solicitation envelope, but the fundraising letter itself appeared to come from the Democratic Party).

that this solicitation was deliberately structured to make recipients think that Senator Paul and others were asking for their money.

The Commission should, on this basis, find reason to believe that Winning the Senate PAC committed a violation of federal law and should immediately open an investigation into the PAC's misrepresentation. Please contact me (202-862-5046 or msanderson@capdale.com) if you have any questions regarding this matter.

Respectfully Submitted,



Matthew T. Sanderson
Counsel to Rand Paul for U.S. Senate
Caplin & Drysdale, Chartered
One Thomas Circle, NW, Suite 1100
Washington, DC 20005

District of Columbia; SS

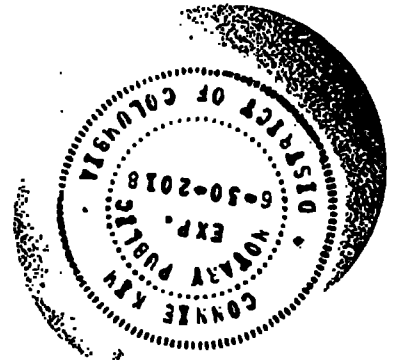
Swojn and subscribed before me this 21st day of October 2014.



Notary Public in and for District of Columbia
My commission expires June 30, 2018

CONNIE KIM
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires June 30, 2018

Enclosure: As Stated



From: Cruz/Paul/Lee/Rubio (Senate) [mailto:stokes@winningthesenate.com]

Sent: Sunday, October 12, 2014 7:36 PM

To: [Recipient Name Omitted]

Subject: We know you ignored this email on Friday. Take a look now.

[Recipient Name Omitted] you haven't had the chance to read our last message, but it's too important to ignore. Please see the forwarded email below and let me know if we can count on your support in securing a Republican victory come November.

We're being outspent by Democrats, but **there is still time to make your voice heard.**

Commit today, contribute now, and fire Harry Reid.

TO: [Recipient Name Omitted]

FROM: Cruz/Paul/Lee/Rubio (Senate)

Subject: Nightmare

[Recipient Name Omitted]

Failing to Win the Senate = **Amnesty for millions of illegals**

Failing to Win the Senate = **Unsecured Borders**

Failing to Win the Senate = **Obamacare becomes Permanent**

Democrats are outspending us in numerous races, but **we are on the verge of pulling**

ahead in key states that will deliver Republicans control of the U.S. Senate.

There are a handful of races that will determine who controls the Senate.

Chipping in just \$25 to one or more of these races will make a difference as we begin the last round of ads:

Donate \$25 for Arkansas | Tom Cotton

Donate \$25 for Iowa | Joni Ernst

Donate \$25 for New Hampshire | Scott Brown

Donate \$25 for Colorado | Cory Gardner

Donate \$25 for Georgia | David Perdue

Donate \$25 for Nebraska | Ben Sasse

Commit to All Six Target States (\$25 each/total of \$150.00)

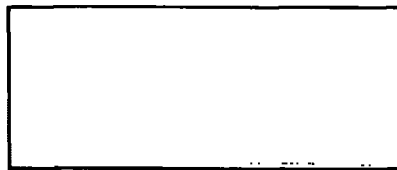
Contribute \$25 To Be Spent Where It's Needed Most

Time is running out.

Help elect conservatives who will join Mike Lee, Rand Paul, Ted Cruz, Marco Rubio, and others to end our national nightmare.

T.J. Stokes

Winning The Senate



Winning The Senate PAC

PO Box 320843 Alexandria, VA 22320

www.WinningTheSenate.com

Unsubscribe from this email list

Paid for by Winning The Senate PAC. Not authorized by any candidate or candidate's committee.

Email not displaying correctly? [View it](#) in your browser